
SENATE BILL No. 413

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3-2-3.8.

Synopsis: Tax deduction for sale of Indiana businesses. Provides an adjusted gross income tax deduction for income derived from the sale of an ownership interest in a high growth Indiana business held for at least one year by certain Indiana taxpayers. Specifies that the maximum deduction amount is \$5,000,000.

Effective: January 1, 2005.

Simpson

January 12, 2004, read first time and referred to Committee on Finance.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 413

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3-2-3.8 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2005]: **Sec. 3.8. (a) As used in this section, "eligible**
4 **taxpayer" refers to a taxpayer that is either:**

- 5 **(1) a resident individual; or**
6 **(2) an Indiana business.**

7 **(b) As used in this section, "high growth company" means a sole**
8 **proprietorship, firm, corporation, partnership, limited liability**
9 **company, limited liability partnership, joint venture, trust,**
10 **syndicate, or other business unit or association that:**

- 11 **(1) is primarily focused on commercialization of research and**
12 **development, technology transfers, or the application of new**
13 **technology, or is determined by the department of commerce**
14 **to have significant potential to:**

- 15 **(A) bring substantial capital into Indiana;**
16 **(B) create jobs;**
17 **(C) diversify the business base of Indiana; or**



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- 1 (D) significantly promote the purposes of this chapter in
 2 any other way; and
 3 (2) is not engaged in a business involving:
 4 (A) real estate;
 5 (B) real estate development;
 6 (C) insurance;
 7 (D) professional services provided by an accountant, a
 8 lawyer, or a physician;
 9 (E) retail sales, except when the primary purpose of the
 10 business is the development or support of electronic
 11 commerce using the Internet; or
 12 (F) gas and oil exploration.
- 13 A company that meets the definition of a high growth company
 14 under this subsection shall be considered to meet the definition
 15 even if affiliated with one (1) or more other companies that do not
 16 meet the definition and regardless of whether any of the affiliated
 17 companies is engaged in a business involving the matters described
 18 in subdivision (2).
- 19 (c) As used in this section, "Indiana business" means a business
 20 that:
 21 (1) is domiciled in Indiana; and
 22 (2) pays a majority of its payroll (in dollar volume) to
 23 residents of Indiana.
- 24 (d) As used in this section, "pass through entity" means:
 25 (1) a corporation that is exempt from the adjusted gross
 26 income tax under IC 6-3-2-2.8(2);
 27 (2) a partnership;
 28 (3) a limited liability company; or
 29 (4) a limited liability partnership.
- 30 (e) As used in this section, "qualified sale" means the sale of an
 31 ownership interest held by an eligible taxpayer in an Indiana
 32 business that is a high growth company for at least one (1) year to
 33 another eligible taxpayer.
- 34 (f) Subject to the requirements of this section, an eligible
 35 taxpayer is entitled to an adjusted gross income tax deduction for
 36 a taxable year equal to the lesser of:
 37 (1) the amount of the taxpayer's adjusted gross income (in the
 38 case of an individual) or taxable income (in the case of a
 39 corporation, a trust, or an estate) for the taxable year that is
 40 derived from a qualified sale; or
 41 (2) five million dollars (\$5,000,000).
- 42 (g) A taxpayer may claim only one (1) deduction under this

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1 section for a particular qualified sale.

2 (h) If an eligible taxpayer that is a pass through entity does not
3 have adjusted gross income or taxable income against which the
4 deduction under this section may be taken, a shareholder or
5 partner of the pass through entity is entitled to a deduction equal
6 to:

7 (1) the deduction under this section determined for the pass
8 through entity for the taxable year; multiplied by

9 (2) the percentage of the pass through entity's distributive
10 income to which the shareholder or partner is entitled.

11 The deduction provided under this subsection is in addition to any
12 deduction under this section to which a shareholder or partner of
13 a pass through entity is otherwise entitled. However, a pass
14 through entity and a shareholder or partner of the pass through
15 entity may not claim a deduction under this section for the same
16 qualified sale.

17 (i) To claim a deduction under this section, an eligible taxpayer
18 must submit to the department all information that the department
19 determines is necessary for a determination of eligibility for the
20 deduction under this section and for the calculation of the
21 deduction.

22 SECTION 2. [EFFECTIVE JANUARY 1, 2005] IC 6-3-2-3.8, as
23 added by this act, applies to taxable years beginning after
24 December 31, 2004.

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